

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NORTH DAKOTA**

**Dakota Access, LLC
Dakota Access Pipeline Project
Siting Application**

CASE NO. PU-14-842

**MOTION FOR CLARIFICATION OF SUPPLEMENTAL FINDINGS OF
FACT, CONCLUSIONS OF LAW AND ORDER DATED MAY 24, 2016**

Dakota Access, LLC (“Dakota Access”) hereby moves the North Dakota Public Service Commission (“Commission”) for clarification of the Supplemental Findings of Fact, Conclusions of Law and Order dated May 24, 2016 in the above-captioned matter. In support of its motion, Dakota Access states as follows:

1.

On December 22, 2014, Dakota Access, LLC (“Dakota Access”) filed with the North Dakota Public Service Commission (“Commission”) a Consolidated Application for a Certificate of Corridor Compatibility and Route Permit (“Siting Application”) to authorize the construction of an approximately 358-mile 12-, 20-, 24-, and 30-inch diameter crude oil pipeline and associated facilities in Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, and Emmons Counties, North Dakota and terminals near Stanley in Mountrail County, near Tioga in Williams County, near Epping in Williams County, near Trenton in Williams County, near Watford City in McKenzie County, and near Johnsons Corner in McKenzie County (the “Project”). *See* PSC Docket No. 1.

2.

On January 20, 2016, the Commission entered its Findings of Fact, Conclusions of Law and Order (“Order”) issuing Certificate of Corridor Compatibility Number 179 and Route Permit Number 191 for the Project. *See* PSC Docket No. 134.

3.

On April 5, 2016, Dakota Access filed an application to amend Certificate of Corridor Compatibility No. 179 and Route Permit No. 191 for the Project. On May 24, 2016, the Commission issued Supplemental Findings of Fact, Conclusions of Law and Order amending the Certificate and Route as requested, with the exception of Reroute Location 50 that required additional information. *See* PSC Docket No. 179.

4.

During the construction process for the Project, it came to the attention of Dakota Access that the Tree and Shrub Mitigation Specifications, attached and made a part of the orders referenced above, stating that “[t]he maximum width of clear cuts through windbreaks, shelterbelts and all other wooded areas is 50 feet, unless otherwise approved by the Commission,” is contrary to all the evidence presented by Dakota Access in this matter. *See* Affidavit of Joey Mahmoud (hereinafter referred to as “Mahmoud Affidavit”).

5.

Specifically, Section 2.9 of the Siting Application dated December 17, 2014, provides that the construction workspace in forested areas will be approximately 85 feet. *See* Mahmoud Affidavit; *see also* PSC Docket No. 1.

6.

At the June 26, 2015 hearing, Monica Howard, the environmental project manager for the Project, offered oral testimony that the width of the corridor varies from between 85 feet to 150 feet depending on the land use at any given location, and that this area will be cleared of vegetation for construction. *See* Mahmoud Affidavit.

7.

Dakota Access also submitted to the Commission a comprehensive Environmental Construction Plan to be utilized for the Project, which sets forth in specific detail how construction will be completed in wooded areas. *See* Mahmoud Affidavit; *see also* PSC Docket No. 15.

8.

Alignment Sheets were also included with the Siting Application depicting areas of additional temporary workspace that will be required for the Project. *See* Mahmoud Affidavit; *see also* PSC Docket No. 1.

9.

Easements have been obtained from all landowners whose properties will be crossed by the pipeline route. The easements that were acquired from the surface owners whose properties contain wooded areas contemplate additional clearing of workspace in these wooded areas. *See* Mahmoud Affidavit.

THEREFORE, in accordance with the Siting Application, the Environmental Construction Plan, and all other evidence presented in this matter, Dakota Access respectfully requests the following:

- (a) That the Commission correct, or acknowledge for clarity, its previous orders to affirm Dakota Access's workspace dimensions from 50 feet to 85 feet for clearing in wooded areas, as provided for in Dakota Access's materials for which Dakota Access was relying upon as approved.
- (b) That the Commission confirm that it has already approved as part of the overall Project the 85 feet of clearing in wooded areas, as the Commission has accepted all the previous plans and submittals which clearly depict 85 feet, and Dakota

Access has not been informed or been made aware of anything to the contrary that the 85 foot approval was in fact made when the project was Certificated.

- (c) Such other relief as the Commission deems just and proper under the circumstances.

Dated this 20th day of June, 2016.

FREDRIKSON & BYRON, P.A.

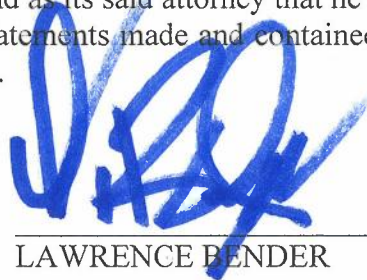
By 

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STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

LAWRENCE BENDER, of lawful age, being first duly sworn, on oath deposes and says:

That he is one of the attorneys for Applicant in the foregoing motion; that he executed the foregoing motion for and on behalf of said Applicant and as its said attorney that he has read said motion and knows the contents thereof, and that the statements made and contained therein are, to the best of his knowledge and belief, true and correct.



LAWRENCE BENDER

Subscribed and sworn to before me this 20th day of June, 2016.

BETH E. RIPPLINGER
Notary Public
State of North Dakota
My Commission Expires January 13, 2022



Notary Public
My Commission Expires: 01/13/2022